

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

WILLIAM F. MADISON,)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 04-3312-CV-S-RED-H
)	
BILL HEDRICK, Warden, et al., ¹)	
)	
Respondents.)	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner has not exhausted administrative remedies, it will be recommended that leave to proceed in forma pauperis be denied.

As grounds for relief in habeas corpus, petitioner contends that staff at the Medical Center have violated his Fifth Amendment right to equal protection because they forced him to comply with an inaccurate inmate financial responsibility plan to repay his fine of \$1,000 and special assessment of \$100.

Respondents contend that petitioner has not exhausted his administrative remedies with the BOP concerning the issue in his habeas petition. According to the affidavit of Dennis Bitz, Attorney Advisor at the Medical Center, petitioner has not exhausted an available administrative remedy

¹ The name of the current warden at the Medical Center has been substituted for that of the former warden.

procedure outlined in 28 C.F.R. Part 542, concerning the issue in his petition. [Affidavit at 2]. The law requires that an inmate fully exhaust the administrative remedy procedure before the court can properly consider the merits of a habeas petition. Respondents contend that exhaustion will allow the BOP to fully develop the record regarding the specific facts concerning petitioner's allegations, and requests that the petition be dismissed under 42 U.S.C. § 1997e(a).

Having fully reviewed the record, the Court finds that the issue raised by petitioner has not been fully exhausted. Accordingly, it must be recommended that the petition for habeas corpus relief be dismissed without prejudice.

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the petition herein for writ of habeas corpus be dismissed without prejudice.

/s/ James C. England
JAMES C. ENGLAND
United States Magistrate

Date: 8/22/05